

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 02-1567

United States of America,

Appellee,

v.

Jose Reynoso,

Appellant.

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Appeal from the United States
District Court for the
Western District of Missouri.
[UNPUBLISHED]

Submitted: July 2, 2002

Filed: July 8, 2002

Before WOLLMAN, FAGG, and MORRIS SHEPPARD ARNOLD, Circuit Judges.

PER CURIAM.

Jose Reynoso pleaded guilty to possessing cocaine with intent to distribute, in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(B). The district court¹ sentenced him to 70 months imprisonment and 5 years supervised release. On appeal, counsel has filed a brief and moved to withdraw under Anders v. California, 386 U.S. 738 (1967), and Reynoso has not filed a pro se supplemental brief.

¹The Honorable Nanette K. Laughrey, United States District Judge for the Western District of Missouri.

Counsel argues that the district court should have granted Reynoso's motion for a downward departure under U.S.S.G. § 5K2.0 based on his willingness to consent to administrative deportation without a hearing. The district court's refusal to depart is unreviewable, however, because the court acknowledged its authority to depart and declined to do so. See United States v. Wolf, 270 F.3d 1188, 1192 (8th Cir. 2001).

After reviewing the record independently under Penon v. Ohio, 488 U.S. 75 (1988), we have found no nonfrivolous issues. Accordingly, we grant counsel's motion to withdraw, and we affirm the judgment.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.